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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,294	08/31/2004	Johannes Lenkl	53376/DBP/E43	3215

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EXAMINER
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PURVIS, SUE A

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/506,294	<b>Applicant(s)</b> LENKL, JOHANNES	
	<b>Examiner</b> Sue A. Purvis	<b>Art Unit</b> 1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>31 Aug 2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 7-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The claim states "wherein the applicator head is reversibly displaceable in a straight line from a starting position into an applicator position, and wherein the applicator pad can be reversibly inserted into a pad receiving means in a direction transverse to the straight line." Upon review of the application, similar language was discovered in the "Summary" portion of the application, but there is no description of this feature in sufficient detail to ascertain the scope and meaning of the claim.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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5. Claims 7-9 are generally narrative and indefinite, failing to conform with current U.S. practice. The intended scope of the claim is unclear because the specification fails to detail the claimed features.

6. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. It appears to be a literal translation into English from a foreign document and contains grammatical and idiomatic errors. Applicant's amendment made the claims a bit clearer, but it is requested applicant review the claim language again, because there is some inconsistency in the claim language used.

7. Claim 13 recites the limitation "the applicator pad" in line 3. There is insufficient antecedent basis for this limitation in the claim. The applicator pad is introduced in claim 6. Appropriate correction is required.

8. Claim 26 recites the limitation "the deformable material" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-4, 6, 10, 13, 15-17, 19, 20, 22, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Von Hofe (US Patent No. 2,492,908).

Regarding claim 1, Von Hofe discloses an applicator head for a device which is in communication with an air suction source and also includes at least two perforatable, weak locations on the surface. The applicator in Von Hofe includes a shim (45). (Col. 5, line 51 through Col. 6, line 27.)

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As to claims 2 and 3, Figures 3 and 5 show how the weak locations are regularly arranged over the entire applicator surface.

As to claim 4, Figure 6 shows grooves on the outside of the applicator surface.

As to claims 6, 10, 13, and 15, Von Hofe includes an embodiment where an applicator pad (39) is coupled to the applicator surface of the shim (41). (See Figure 2.) Also included is a mounting frame (36) releasably connected to the applicator pad (39). The surface of the mounting frame includes perforated or weak locations (42) which correspond to the ones on the shim (41).

As to claim 16, the carrier plate in Von Hofe has a sufficient thickness.

As to claim 17, the carrier plate is releasably connected to the air suction force.

As to claim 19 and 20, the formation in Figures 3 and 5 show a pattern of closely spaced dots that amounts to a raster grid with rows and columns.

As to claim 22, the applicator plate includes an applicator surface in Van Hofe.

As to claim 23, the embodiment with the carrier plate and applicator plate in Figure 2 includes a space in between.

11. Claims 1-5, 13, 15, 18, 21, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Becker (US Patent No. 6,182,957 B1).

Regarding claim 1, Becker discloses an apparatus for holding a flexible product which is in communication with an air suction source and also includes at least two perforatable, weak locations on the surface. In Becker the flat plate (14) includes apertures (22) which extend through the plate. It is appreciated that these apertures are weak locations, alternatively a tool which is made of harder material than the plate can be used to perforate the plate at the location of the apertures or make new apertures in the plate.

As to claims 2 and 3, Figure 3 shows how the weak locations are regularly arranged over the entire applicator surface.

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As to claims 4, 5, and 21, a second plate (16) is fastened to the flat plate (14) and provides for columns and grooves which are provided between at least two columns of the weak locations as shown in Figure 1. The grooves extend in parallel and at equidistant spacing to each other.

As to claim 13, Becker includes an applicator plate (16) and a carrier plate (14).

As to claim 15, the applicator plate includes grooves which are considered weakened locations which are aligned with the weakened locations (22) on the carrier plate (14).

As to claims 18 and 26, the material used in Becker is plastic material, and plastic materials are known to be deformable.

### ***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Hofe as applied to claims 1, 6, and 10 above, and further in view of Tiefel (US Patent No. 5,885,406).

While Von Hofe shows applicator pad with a mounting frame, there is no teaching in Von Hofe with respect to a locking device which includes a spring-loaded ball. It would have been obvious to one having ordinary skill in the art at the time the invention was made that such a locking device could be used in the device of Von Hofe, because, as shown in Tiefel, such a locking device is known in the art and within the purview of one of ordinary skill to use as needed.

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14. Claims 14 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Hofe as applied to claims 1 and 13 above, and further in view of Wood (US Patent No. 3,377,096) or Wilson et al. (US Patent No. 5,024,574).

Von Hofe discloses releasably attaching the applicator plate and the carrier plate. Alternatively the plates could be non-releasably fastened together as shown in both Wood and Wilson. It would have been obvious to one having ordinary skill in the art at the time the invention was made to non-releasably fasten plates together by means of glue, because Wood and Wilson show that it is well known to glue surfaces together which multiple plates are used in combination on a vacuum chuck. Using glue to adhere the plates together is a functionally equivalent alternative expedient of using fasteners, both being within the purview of the artisan.

#### ***Allowable Subject Matter***

15. Claim 25 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Purvis whose telephone number is (571) 272-1236. The examiner can normally be reached on Monday through Friday 9am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher A. Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Sue Purvis", with a stylized flourish at the end.

Sue A. Purvis  
Primary Examiner  
Art Unit 1734

SP  
March 11, 2006